IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.3105 OF 2005

Between:

The Superintendent,

Government Hospital for Mental Care,

Hyderabad, and others.

..... PETITIONERS

AND

Sri Saleem Baig, MNO

Compulsory Retirement,

Government Hospital for Mental Care,

Hyderabad.

....RESPONDENT

THE HON'BLE MR JUSTICE

J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE

RAMESH RANGANATHAN

WRIT PETITION No.3105 OF 2005

O R D E R

(Per Sri Justice J.Chelameswar)

Aggrieved by an order in O.A.No.953 of 2001 passed by the A.P. Administrative Tribunal, dated 26.08.2004, the respondents therein preferred the present writ petition.

The respondent herein was working as a Male Nursing Orderly in the Government Hospital for Mental Care, Hyderabad. By proceedings dated 15.11.1996 of the 1st petitioner herein, the respondent was compulsorily retired from service. The said order was preceded by an enquiry into two charges of misconduct alleged against the respondent herein. The respondent was found guilty of both the charges and consequently the proceedings dated 15.11.1996 came to be issued by the 1st petitioner. Aggrieved by the said decision of the 1st petitioner, the respondent carried the matter in appeal to the 2nd petitioner herein. The 2nd petitioner by his proceedings dated 24.09.2000 rejected the appeal of the respondent. Thereafter, the respondent challenged the correctness of both the above mentioned orders in O.A.No.953 of 2001. The A.P. Administrative Tribunal by the order under challenge allowed the O.A. holding that the order passed by the appellate authority -

2nd petitioner herein, is vitiated by the fact that such order admittedly came to be passed in consultation with the 1st petitioner herein, against whose order the appeal was preferred. The fact that the appellate authority – 2nd petitioner consulted the 1st petitioner is evident from the appellate order itself.

The Tribunal concluded that the enquiry was vitiated in view of non-adherence of the principles of natural justice and also the appellate order was vitiated for the reasons indicated earlier.

In view of the finding that the order of the appellate authority is vitiated on the ground that such an order came to be passed in consultation with the disciplinary authority, in our view, the Tribunal need not have gone into the question whether the enquiry was vitiated for any other reason. However, the Tribunal chose to direct the enquiry to be conducted from the stage where it stopped on 11.10.1995.

In the circumstances, the writ petition is partly allowed setting aside the order of the Tribunal. We direct the appellate authority to consider the matter afresh and pass

appropriate orders. We also make it clear that the findings recorded by the Tribunal with regard to legality of the enquiry proceedings are hereby set aside. It is open to both the parties to agitate all the grounds available under law. We also deem it appropriate to direct the appellate authority to dispose of the appeal within a period of eight weeks from the date of service of notice of hearing of the appeal pursuant to this order.

JUSTICE J.CHELAMESWAR

JUSTICE RAMESH RANGANATHAN

28TH OCTOBER, 2005

Note:

Issue order copy in two days.

(B/O) PGS

THE HON'BLE MR JUSTICE

J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE

RAMESH RANGANATHAN

WRIT PETITION No.3105 OF 2005

(Per Sri Justice J.Chelameswar)

28th OCTOBER, 2005